MOTION AS TO COSTS

Supreme Court of the United States

OCTOBER TERM, 1946

No. 184

A. N. CONE, PETITIONER,

versus

WEST VIRGINIA PULP AND PAPER COMPANY.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT

MOTION AS TO COSTS

Respondent, West Virginia Pulp and Paper Company, moves the Court, pursuant to paragraph 8 of Rule 38, to enter an order excluding from taxation as costs against respondent the cost of printing and the Clerk's fee for supervising the printing of 121 pages of the transcript of record, upon the ground that they were entirely irrelevant to the questions covered by the order allowing *certiorari*, which was "limited to the questions of federal procedure raised by the writ" (T. 150), and that a reasonable effort was made by counsel for respondent to secure the printing of a proper record, by eliminating from the record the por-

tions aggregating 121 pages, as aforesaid, such effort being evidenced by the reservation made by counsel for respondent in the stipulation dated November 18, 1946 (T. 151-2).

The irrelevant portions that counsel for respondent sought to eliminate from the printed record are:

1. The excerpts from testimony of witnesses, commencing near the top of page 3 and ending about the middle of page 41, aggregating more than 37 printed pages.

2. The exhibits commencing near the bottom of page 51 (including the plat numbered 56-A) and ending at the middle of page 74, aggregating 22 pages.

3. The record of the motion for a new trial, together with the opinion and order thereon, commencing at page 75 and ending at the middle of page 105, aggregating 29 pages.

4. The excerpts of testimony of witnesses and affidavit, *etcetera*, commencing near the bottom of page 105 and extending through page 137, including pages numbered 132-a and 132-b, aggregating 33 pages.

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Attorneys for Respondent,
West Virginia Pulp and Paper Company.

NOTICE

To Messrs. Wayne H. Unger,

W. J. McLeod, Jr.,

J. P. Mozingo, III,

Attorneys for Petitioner.

YOU WILL PLEASE TAKE NOTICE That respondent will submit the above motion to the Supreme Court of the United States in the Court Room at Washington, D. C., on Friday, the 21st day of March, 1947, at twelve o'clock noon, or as soon thereafter as counsel can be heard.

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